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8 *Attorney for Plaintiff*

9
10 **IN THE UNITED STATES DISTRICT COURT**
11 **FOR THE DISTRICT OF ARIZONA**

12 **MARTHA RODRIGUEZ**, a single
13 woman,

14 Plaintiff,

15 vs.

CASE NO.: CV 09-1853-PHX-FJM

**MOTION FOR LEAVE TO AMEND
COMPLAINT**

16 **QUALITY LOAN SERVICE CORP.** a
17 California corporation licensed to do
18 business in the State of Arizona,
19 **MIDFIRST BANK** a nationally chartered
20 bank, and their subsidiary **MIDLAND**
21 **MORTGAGE COMPANY**, an
22 Oklahoma Corporation licensed to do
23 business in the State of Arizona, **WELLS**
24 **FARGO BANK, N.A.**, a national banking
25 association licensed to do business in the
26 State of Arizona. **TRES AMIGOS**
27 **PROPERTIES LLC**, an Arizona limited
28 liability company, **XYZ**
CORPORATIONS 1-10, JOHN and
JANE DOES 1-10, BLACK
PARTNERSHIPS 1-10

Defendants.

23
24 **COMES NOW**, Plaintiff, **MARTHA RODRIGUEZ**, by and through undersigned
25 counsel hereby moves this court for leave to file her amended complaint.

26 A Plaintiff may amend their Complaint as a matter of law once before any responsive
27 pleading has been served. After a response, the party's amended pleading requires leave by the
28 court. Leave to amend shall be freely given when justice requires. Fed. R. Civ. P. 15(a).

1 The amendment is required for a number of reasons. First, although Quality Loan
2 Services never produced the noticing evidence after numerous attempts both before and after
3 filing the complaint, Tres Amigos did provide sufficient evidence of notice. As a result, both of
4 them have been dismissed. The caption has been changed to reflect this change. The landscape
5 has significantly changed with this new evidence; Plaintiff now concedes that retrieval of the
6 property is no longer a viable remedy. Therefore, the complaint must be amended to accurately
7 reflect the current parties to the case and Plaintiff's prayer for monetary relief as opposed to
8 relief relating to retrieval of the property. Lastly, an amendment is required to clarify the factual
9 basis of the Plaintiff's complaint in this matter.

10 The changes to the complaint include clarifying that Defendants' actions caused
11 emotional distress requiring an additional award of damages, eliminating any reference to
12 Quality Loan Services or Tres Amigos, updating the fact that Plaintiff was evicted after the
13 trustee sale, and other changes to make the complaint consistent with the current state of the
14 case.

15 WHEREFORE, it is respectfully requested that Plaintiff be allowed to file her Amended
16 Complaint as attached hereto as Exhibit A.

17
18
19 **DATED** this 6th Day of January, 2010.

20
21 **JOSEPH W. CHARLES, P.C.**

22
23 By /s/ Joseph W. Charles

24 **JOSEPH W. CHARLES**
25 *Attorneys for Plaintiff*
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27
28

1 ORIGINAL filed this 6th day of
2 January, 2010, with:

3 Clerk of the Court

4
5 COPY of the foregoing mailed this 6th
6 day of January 2010, to:

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C. Short